

Adopted	Rejected
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COMMITTEE REPORT

YES:	12
NO:	0

MR. SPEAKER:

*Your Committee on Education, to which was referred House Bill 1202, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-2-5-5, AS AMENDED BY P.L.272-2001,
- 4 SECTION 2, AND AS AMENDED BY P.L.228-2001, SECTION 2, IS
- 5 AMENDED AND CORRECTED TO READ AS FOLLOWS
- 6 [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Except as provided in
- 7 subsection (b), on request, law enforcement agencies shall release or
- 8 allow inspection of a limited criminal history to noncriminal justice
- 9 organizations or individuals only if the subject of the request:
- 10 (1) has applied for employment with a noncriminal justice
- 11 organization or individual;
- 12 (2) has applied for a license and criminal history data as required
- 13 by law to be provided in connection with the license;
- 14 (3) is a candidate for public office or a public official;
- 15 (4) is in the process of being apprehended by a law enforcement
- 16 agency;

- 1 (5) is placed under arrest for the alleged commission of a crime;
- 2 (6) has charged that his rights have been abused repeatedly by
- 3 criminal justice agencies;
- 4 (7) is the subject of judicial decision or determination with
- 5 respect to the setting of bond, plea bargaining, sentencing, or
- 6 probation;
- 7 (8) has volunteered services that involve contact with, care of, or
- 8 supervision over a child who is being placed, matched, or
- 9 monitored by a social services agency or a nonprofit corporation;
- 10 **(9) is employed by an entity that seeks to enter into a contract**
- 11 **with a public school (as defined in IC 20-10.1-1-2) or a**
- 12 **non-public school (as defined in IC 20-10.1-1-3), if the subject**
- 13 **of the request is expected to have direct, ongoing contact with**
- 14 **school children within the scope of the subject's employment;**
- 15 (10) has volunteered services at a public school (as defined in
- 16 IC 20-10.1-1-2) or non-public school (as defined in
- 17 IC 20-10.1-1-3) that involve contact with, care of, or supervision
- 18 over a student enrolled in the school;
- 19 ~~(10)~~ (11) is being investigated for welfare fraud by an investigator
- 20 of the division of family and children or a county office of family
- 21 and children;
- 22 ~~(11)~~ (12) is being sought by the parent locator service of the child
- 23 support bureau of the division of family and children; or
- 24 ~~(12)~~ (13) has been convicted of any of the following:
- 25 (A) Rape (IC 35-42-4-1), if the victim is less than eighteen
- 26 (18) years of age.
- 27 (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is
- 28 less than eighteen (18) years of age.
- 29 (C) Child molesting (IC 35-42-4-3).
- 30 (D) Child exploitation (IC 35-42-4-4(b)).
- 31 (E) Possession of child pornography (IC 35-42-4-4(c)).
- 32 (F) Vicarious sexual gratification (IC 35-42-4-5).
- 33 (G) Child solicitation (IC 35-42-4-6).
- 34 (H) Child seduction (IC 35-42-4-7).
- 35 (I) *Sexual misconduct with a minor as a Class A or B felony*
- 36 *(IC 35-42-4-9).*
- 37 (J) Incest (IC 35-46-1-3), if the victim is less than eighteen
- 38 (18) years of age.

1 However, limited criminal history information obtained from the
 2 National Crime Information Center may not be released under this
 3 section except to the extent permitted by the Attorney General of the
 4 United States.

5 (b) A law enforcement agency shall allow inspection of a limited
 6 criminal history by and release a limited criminal history to the
 7 following noncriminal justice organizations:

8 (1) Federally chartered or insured banking institutions.

9 (2) Officials of state and local government for *any of the purpose*
 10 *of following purposes:*

11 (A) Employment ~~and~~ *with a state or local governmental*
 12 *entity.*

13 (B) Licensing.

14 (3) Segments of the securities industry identified under 15 U.S.C.
 15 78q(f)(2).

16 (c) Any person who uses limited criminal history for any purpose
 17 not specified under this section commits a Class A misdemeanor.

18 SECTION 2. IC 20-5-2-7, AS AMENDED BY P.L.272-2001,
 19 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2002]: Sec. 7. (a) A school corporation, including a school
 21 township, shall adopt a policy concerning criminal history information
 22 for individuals who:

23 (1) apply for:

24 (A) employment with the school corporation; or

25 (B) employment with an entity with which the school
 26 corporation contracts for services;

27 (2) seek to enter into a contract to provide services to the school
 28 corporation; or

29 (3) are employed by an entity that seeks to enter into a contract to
 30 provide services to the school corporation;

31 if the individuals are likely to have direct, ongoing contact with
 32 children within the scope of the individuals' employment.

33 (b) A school corporation, including a school township, shall
 34 administer a policy adopted under this section uniformly for all
 35 individuals to whom the policy applies. A policy adopted under this
 36 section may require any of the following:

37 (1) The school corporation, including a school township, may
 38 request limited criminal history information concerning each

1 applicant for noncertificated employment or certificated
2 employment from a local or state law enforcement agency before
3 or not later than three (3) months after the applicant's employment
4 by the school corporation.

5 (2) Each individual hired for noncertificated employment or
6 certificated employment may be required to provide a written
7 consent for the school corporation to request under IC 5-2-5
8 limited criminal history information or a national criminal history
9 background check concerning the individual before or not later
10 than three (3) months after the individual's employment by the
11 school corporation. The school corporation may require the
12 individual to provide a set of fingerprints and pay any fees
13 required for a national criminal history background check.

14 (3) Each individual hired for noncertificated employment may be
15 required at the time the individual is hired to submit a certified
16 copy of the individual's limited criminal history (as defined in
17 IC 5-2-5-1(1)) to the school corporation.

18 (4) Each individual hired for noncertificated employment may be
19 required at the time the individual is hired to:

20 (A) submit a request to the Indiana central repository for
21 limited criminal history information under IC 5-2-5;

22 (B) obtain a copy of the individual's limited criminal history;
23 and

24 (C) submit to the school corporation the individual's limited
25 criminal history and a document verifying a disposition (as
26 defined in IC 5-2-5-1(6)) that does not appear on the limited
27 criminal history.

28 (5) Each applicant for noncertificated employment or certificated
29 employment may be required at the time the individual applies to
30 answer questions concerning the individual's limited criminal
31 history. The failure to answer honestly questions asked under this
32 subdivision is grounds for termination of the employee's
33 employment.

34 (6) Each individual that:

35 (A) seeks to enter into a contract to provide services to a
36 school corporation; or

37 (B) is employed by an entity that seeks to enter into a contract
38 with a school corporation;

1 may be required at the time the contract is formed to comply with
 2 the procedures described in ~~subdivision (4)(A) and (4)(B):~~ The
 3 school corporation either may require that the individual or the
 4 contractor comply with the procedures described in subdivision
 5 ~~(4)(C) or (5):~~ subdivisions (2), (4), and (5). An individual who
 6 is employed by an entity that seeks to enter into a contract
 7 with a school corporation may be required to provide the
 8 consent described in subdivision (2) or the information
 9 described in subdivisions (4) and (5) to either the individual's
 10 employer or the school corporation. Failure to comply with
 11 subdivisions (2), (4), and (5), as required by the school
 12 corporation, is grounds for termination of the contract.

13 (c) If an individual is required to obtain a limited criminal history
 14 under this section, the individual is responsible for all costs associated
 15 with obtaining the limited criminal history.

16 (d) Information obtained under this section must be used in
 17 accordance with IC 5-2-5-6."

18 Page 1, line 11, after "of a" insert "**public**".

19 Page 1, line 11, delete "corporation" and insert "(as defined in
 20 **IC 20-10.1-1-2)**".

21 Page 1, line 13, after "give" insert "**written**".

22 Page 1, line 16, delete "The" and insert "**Except as provided in**
 23 **subdivision (3), the**".

24 Page 2, between lines 1 and 2, begin a new line block indented and
 25 insert:

26 "**(3) The presiding officer of the governing body of the school**
 27 **corporation that employs the licensed employee, if the**
 28 **convicted licensed employee is the superintendent of the**
 29 **school corporation.**".

30 Page 2, line 2, after "corporation" insert ", **presiding officer of the**
 31 **governing body,**".

32 Page 2, line 5, after "the" insert "**public**".

33 Page 2, line 5, strike "corporation".

- 1 Page 3, line 1, after "(1)" insert "**or more**".
- 2 Page 3, line 34, after "(1)" insert "**or more**".
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1202 as introduced.)

and when so amended that said bill do pass.

Representative Porter